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RECENT DEVELOPMENT

SEABORNE-WORSLEY V. MINTIENS: IN THE CONTEXT OF THE MODERN AUTOMOBILE, THE DOCTRINE OF IMPUTED NEGLIGENCE HAS BECOME LARGELY OBSOLETE

By: Chelsea King

The Court of Appeals of Maryland held that the doctrine of imputed negligence no longer presumes the owner-passenger of a vehicle has operational control over a permissive driver, and therefore, may not be responsible for the negligence of a permissive driver. *Seaborne-Worsley v. Mintiens*, 458 Md. 555, 576, 183 A.3d 141, 153 (2018). The court also held that a negligent third-party may not use the contributory negligence of a permissive driver as a defense against an innocent owner-passenger of the vehicle. *Seaborne-Worsley*, 458 Md. at 576, 183 A.3d at 153. Therefore, the doctrine of imputed negligence would not bar an owner-passenger's ability to recover for injuries sustained in an automobile accident in which the owner-passenger was not at fault. *Id.*

On October 23, 2015, Victoria Worsley's ("Ms. Worsley") husband drove the couple in a vehicle that Ms. Worsley individually owned. Mr. Worsley had parked the vehicle in the travel lane of a restaurant parking lot, perpendicular to a handicap parking spot, while he got out of the car to pick up takeout. Ms. Worsley remained in the vehicle. While Ms. Worsley was waiting for Mr. Worsley to return, Jeffrey Mintiens' ("Mr. Mintiens") departed his parking space, and backed his truck into the back-passenger side door of Ms. Worsley's vehicle.

On July 25, 2016, Ms. Worsley filed a complaint in the District Court of Maryland for Baltimore County against Mr. Mintiens alleging negligence and seeking compensation for the injuries she sustained as a result of the accident. At trial, Mr. Mintiens raised the defense of contributory negligence, and argued that Mr. Worsley had been negligent in failing to park his car in a parking space. The district court entered judgment in favor of Mr. Mintiens, finding Mr. Worsley's negligence in parking the vehicle in the travel lane had contributed to the accident. The district court applied the doctrine of imputed negligence to attribute the negligence of Mr. Worsley onto Ms. Worsley, and thus, barred Ms. Worsley's ability to seek relief for her injuries. The Circuit Court for Baltimore County affirmed the ruling, finding the district court properly imputed Mr. Worsley's negligence onto Ms. Worsley as the sole owner of the vehicle.

Ms. Worsley filed a petition for a writ of *certiorari*, which the Court of Appeals of Maryland granted. *Seaborne-Worsley*, 458 Md. at 562, 183 A.3d at 145. The issue before the court was whether the doctrine of imputed negligence should be applied to hold a sole owner-passenger vicariously liable

for the negligence of a permissive driver. *Id.* at 562, 183 A.3d at 145. The court began its analysis by examining the doctrine of imputed negligence in the context of automobile torts in Maryland. *Id.* at 564, 183 A.3d at 146. The court explained that the doctrine of imputed negligence applies when the sole owner of a vehicle is a passenger in their vehicle while a second party is driving. *Id.* The doctrine is based on the presumption that the owner is able to control the vehicle, or the owner has a right to exert control over the actions of the permissive driver. *Id.* Consequently, any negligence of the permissive driver is attributed to the owner-passenger. *Id.*

Next, the court examined the circumstances in which the negligence of a permissive driver would not be imputed onto the owner-passenger. *Seaborne-Worsley*, 458 Md. at 564, 183 A.3d at 146. Generally, an owner-passenger has the burden of rebutting the presumption to escape the doctrine of imputed negligence. *Id.* To rebut the presumption the owner must show they lacked operational control of the vehicle. *Id.* (citing *Williams v. Wheeler*, 252 Md. 75, 249 A.2d 104 (1969)). The court explained that if the owner failed to rebut the presumption, the negligence of the permissive driver would be imputed onto the owner. *Id.* at 564, 183 A.3d at 146. Ultimately, the trial court found Ms. Worsley had failed to rebut the presumption. *Id.* at 562, 183 A.3d at 144.

Next, the court analyzed how the changes in both law and automobile insurance policies have diminished the necessity of the doctrine. *Seaborne-Worsley*, 458 Md. at 569, 183 A.3d at 148. Specifically, changes to insurance laws and coverage now protect drivers from other uninsured or underinsured motorists, allowing injured drivers to recover from drivers that are financially unfit to compensate for damages. *Id.* at 569, 183 A.3d at 148-49. Due to this evolution of law and automobile insurance, there is no longer a rationale for a presumption that an owner-passenger has control over a permissive driver. *Id.* at 569, 183 A.3d at 148.

Next, the court addressed the reality of how little control an owner-passenger has over a vehicle. *Seaborne-Worsley*, 458 Md. at 570, 183 A.3d at 149. The court emphasized the difference between the owner-passenger's *right* to control and the owner-passenger's actual *ability* to control the vehicle. *Id.* The court noted how backseat driving is both a danger and an annoyance to a driver. *Id.* (citing *Slutter v. Homer*, 244 Md. 131, 139, 223 A.2d 141 (1966)). Furthermore, if an owner-passenger were to attempt to exert physical control over the vehicle while the permissive driver was driving, it would likely be ineffective in preventing the driver from driving negligently. *Seaborne-Worsley*, at 570, 183 A.3d at 149.

Finally, the court analyzed the complexity of determining the sole owner of a vehicle. *Seaborne-Worsley*, 458 Md. at 570, 183 A.3d at 149. The court acknowledged that in many families, formal title or registration of a vehicle has more to do with who finances the vehicle, but does not necessarily correlate to who exercises domain over the vehicle. *Seaborne-Worsley*, at 570, 183 A.3d at 149 (citing *Green v. Green*, 64 Md. App. 122, 144, 494 A.2d 721 (1985)). Additionally, the court explained that co-owner-passengers are

exempt from the doctrine of imputed negligence as they cannot possess actual and superior rights to control the vehicle. *Id.* at 572, 183 A.3d at 150 (citing *Nationwide Mut. Ins. Co. v. Stroh*, 314 Md. 176, 550 A.3d 373 (1988)). The difficulty of determining an owner of a vehicle makes proper application of the doctrine of imputed negligence problematic. *Seaborne-Worsley*, at 570, 183 A.3d at 149.

In *Seaborne-Worsley*, the Court of Appeals of Maryland held the doctrine of imputed negligence did not apply as the court no longer presumes that an owner-passenger has operational control over a permissive driver. The court eliminated the contributory negligence presumption regarding owner-passengers in Maryland, finding the policy behind the presumption of owner control to be fictitious, as passengers do not always have actual control over permissive drivers. This case allows for negligent drivers to be held accountable for their actions and provides innocent owner-passengers the ability to obtain damages without having to first rebut the presumption. By eliminating the presumption, courts will likely be required to analyze the specific facts of each case before determining whether the doctrine of imputed negligence will hold owner-passengers negligent. Additionally, the court's willingness to eliminate the presumption may also indicate that Maryland could be taking small steps towards eventually transitioning to a comparative negligence jurisdiction.